

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number	10/667,329	Confirmation No.:	1653
Applicant	John HANE		
Filed	September 23, 2003		
Title	SYSTEM, METHOD AND SOFTWARE APPLICATION FOR SECURE COMMUNICATION		
TC/Art Unit	2136		
Examiner:	Eleni A. Shiferaw		
Docket No.	57132.000008		
Customer No.	21967		

Mail Stop: Appeal Brief--Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

REPLY BRIEF

In response to the Examiner's Answer mailed July 7, 2010, in connection with the above-captioned patent application. Appellant presents this Reply Brief to clarify points raised by the Office in the Examiner's Answer.

I. Status Of Claims

Claims 1-18 have been cancelled without prejudice.

Claims 19-23 are currently withdrawn from consideration.

Claims 24-32 are currently pending in this application.

Claims 24-32 were rejected in the Final Office Action under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 6,289,389 to Kikinis (“Kikinis”) in view of U.S. Patent Application Publication US 2002/0106086 to Kamiya *et al.* (“Kamiya”).

The final rejection of claims 24-32 is hereby appealed.

II. Ground Of Rejection To Be Reviewed On Appeal

The following ground of rejection is to be reviewed on appeal:

The rejection of claims 24-32 under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 6,289,389 to Kikinis (“Kikinis”) in view of U.S. Patent Application Publication US 2002/0106086 to Kamiya *et al.* (“Kamiya”).

III. Argument

This Appellant's Reply Brief is responsive to the Examiner's Answer mailed July 7, 2010, in connection with the above-captioned patent application. Appellant presents this Reply Brief to clarify points and answer new arguments raised by the Office in the Examiner's Answer.

In the Examiner's Answer, the Office repeats the rejection of all pending claims based on the cited references. Appellant hereby clarifies its rebuttal to the rejection and answers to the new arguments raised by the Examiner.

A. The Office Continues to Misinterpret the Claimed Inventions

Claim 24 recites "selecting and addressing said first set of data packets for transmission at a first transmission time via a first channel of a transmission mode at a first frequency," and "selecting and addressing said second set of data packets for transmission at a second transmission time via a second channel of the transmission mode at a second frequency."

Appellant submits that claim 24 recites a single transmission mode for transmitting first set of data packet at a first transmission time via a first channel and second set of data packets at a second transmission time via a second channel. In contrast, Kikinis discloses two disparate transmission modes (e.g., Internet and Satellite) to transmit data packets and a decryption key. In particular, Kikinis discloses that the data packet is appropriately tagged with an IP address for identification by control software running in PC 19 and transmitted via the satellite 37. *See, e.g.*, column 6, lines 28-32. Also, Kikinis discloses that a decryption key may be sent back to the user via digital link 53 of Fig. 1 to proxy-server 29 and back through digital link 20, PSTN cloud 15, analog link 18 through analog modem 17 and into the users PC. *See, e.g.*, column 6, lines 33-37. In addition, the Office acknowledges that Kikinis discloses two transmission modes (e.g.,

satellite and Internet) of transmission for delivering encrypted data and decrypting key to a client's destination. *See, e.g.*, Examiner's Answer, pages 9 and 10. Thus, Appellant respectfully submits that Kikinis fails to disclose, or even suggest, "selecting and addressing said first set of data packets for transmission at a first transmission time via a first channel of a transmission mode at a first frequency," and "selecting and addressing said second set of data packets for transmission at a second transmission time via a second channel of the transmission mode at a second frequency," as recited in claim 24.

B. The Purported Combination of Cited References is Improper

The Office continues to improperly allege that it would have been obvious to one having ordinary skill in the art at the time of the invention was made to employ the teachings of Kamiya within the system of Kikinis because they are analogous in secure content distribution in different transmission channel. Also, the Office in the Examiner's Answer continues to allege that Kikinis does not teach away from Kamiya. Appellant respectfully disagrees. In particular, Kikinis discloses that it will be apparent to one with skill in the art that in a system of the invention whereby the user is connected to both a land route and a satellite route, information from the same source can be sent by land and satellite at the same time. *See, e.g.*, Kikinis, column 6, lines 48-53. Thus, Kikinis discloses that the information are sent at the same time by land and satellite. Kamiya, in contrast to Kikinis, discloses a data delivery system that transmits content packets and key packets at different times. *See, e.g.*, Kamiya, paragraph [0023]-[0025]. Thus, Appellant respectfully submits that Kikinis teaches away from Kamiya and it would *not* have been obvious to one having ordinary skill in the art at the time of the invention was made to

employ the different time transmission of Kamiya for the same time transmission system of Kikinis.

C. The Office Continues to Ignore the Teachings of Kamiya

Also, the Office continues to improperly allege that Kamiya discloses that the digital data and key information are delivered via different routes *and* at different times. Kamiya discloses that the digital data and the key information are transmitted *either* via different routes *or* at different times and not via different routes *and* at different times, as alleged by the Office. In particular, Kamiya discloses that in case where key information and content information are transmitted over the same physical network, content information and key information are not delivered simultaneously. *See, e.g.*, paragraph [0023]. Thus, Appellant submits that one of ordinary skilled in the art would have no reason to combine transmission of content information and a decryption key at different times via the same physical network as disclosed by Kamiya with simultaneous transmission over the disparate networks of Kikinis.

For at least the above reasons, Appellant respectfully requests that the obviousness rejection of claims 24-32 be withdrawn.

IV. Conclusion

Appellant respectfully submits that the pending claims are allowable over the cited references. Accordingly, Appellant respectfully requests that the Board reverse the prior art rejections set forth in the Examiner's Answer. Appellant respectfully submits that no other fees are required in connection with this request. However, in the event it is determined that a further fee is necessary to maintain the pendency of this application, the Commissioner is hereby authorized to charge or credit the undersigned's deposit account number 50-0206.

Respectfully submitted,

By:

Dalei Dong
Registration No. 60,363

Hunton & Williams
1900 K. St., NW, Suite 1200
Washington, D.C. 20006-1109
Telephone: (202) 955-1500
Facsimile: (202) 778-2201

Date: August 30, 2010